

# Notice of Allowability

Application No.

10/648,636

Examiner

Zachary C. Tucker

Applicant(s)

HANDA ET AL.

Art Unit

1624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 14 November 2005.
2. ☒ The allowed claim(s) is/are 13-25.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All b) ☐ Some\* c) ☐ None of the:
    1. ☒ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

JAMES O. WILSON  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1600

### EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

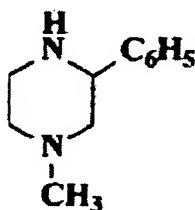
Authorization for this examiner's amendment was given in a telephone conversation between the examiner and Mr. Jay R. Akhave on 30 November 2005.

#### IN THE CLAIMS –

A period has been inserted at the end of claim 13 and has been moved from line 7 of claim 17 to the end of that claim.

Claims 24 and 25 have been amended as follows:

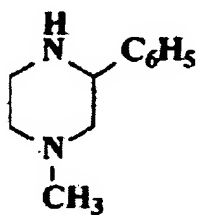
24. A The process according to claim 14, further comprising conversion of ~~for~~ ~~converting~~ 1-methyl-3-phenylpiperazine of Formula I



Formula I

~~prepared according to claim 14,~~ to Mirtazapine.

25. A The process according to claim 19, further comprising conversion of ~~for~~  
~~converting~~ 1-methyl-3-phenylpiperazine of Formula I



Formula I

~~, prepared according to claim 19, to Mirtazapine.~~

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end of amendments

***Response to Amendment***

As requested in the correspondence filed 14 November 2005 (hereinafter "present amendment"), which is in reply to the Office action mailed 29 August 2005 (hereinafter "previous Office action"), claims 1-12 have been cancelled and new claims 14-25 added.

***Status of Claim Rejections - 35 USC § 112***

In the previous office action, claims 3-12 were rejected under the second paragraph of 35 U.S.C. 112, for indefiniteness.

Claims 3-12 have been cancelled, rendering moot any rejection of those claims. The newly presented claims are not indefinite.

***Status of Claim Rejections - 35 USC § 102***

In the previous Office action, claims 5 and 6 were rejected under 35 U.S.C. 102(a) and (e) as being anticipated by WO 02/090339 (Rao et al).

Claims 5 and 6 have been cancelled, rendering moot the rejection based on Rao et al.

***Allowable Subject Matter***

Claims 13-25 are allowed.

Reasons for the indication of allowable subject matter were provided at pages 4-7 of the previous Office action. Several prior art disclosures were cited and summarized in the previous Office action.

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Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

**Conclusion**

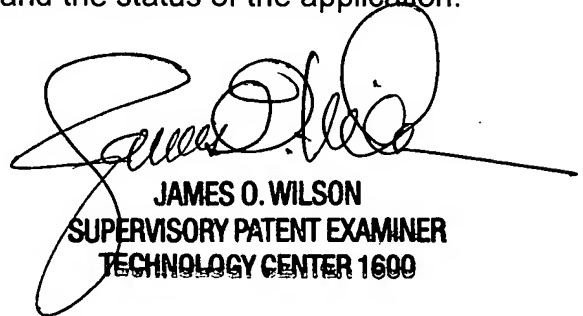
All Post-Allowance Correspondence concerning this application must be mailed to:

Mail Stop Issue Fee  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Or you can fax them to the Office of Patent Publications at 703-872-9306, in order to expedite the handling of such correspondence as amendments under 37 CFR 1.312; information disclosure statements, and formal drawings. Sending Post-Allowance papers to Technology Center 1600 will only cause delays in matching papers with the case.

For information concerning status of correspondence sent after receipt of the Notice of Allowance, please contact the Correspondence Branch at (703) 305-8027. The Notice of Allowance also has an insert containing contact information on other items, including Issue Fees, receipt of formal drawings and the status of the application.

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